

# CRAVATH, SWAINE & MOORE

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INTERSTATE COMMERCE COMMISSION

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FRANK H. DETWEILER  
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INTERSTATE COMMERCE COMMISSION

Date APR 2 1980

Fee \$ 100.00

ICC Washington, D. C.

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APR  
FEB 2 - 1980 - 1 40 PM

INTERSTATE COMMERCE COMMISSION

Morton-Norwich Products, Inc.

11.40% Equipment Trust Certificates Due January 15, 1998

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Morton-Norwich Products, Inc., for filing and recordation counterparts of the following documents:

(1) Equipment Trust Agreement dated as of February 1, 1980, between First Security Bank of Utah, N.A., as Trustee and First Security State Bank, as Owner-Trustee;

(2) (a) Lease of Railroad Equipment dated as of February 1, 1980, between Morton-Norwich Products, Inc., and First Security State Bank, as Owner-Trustee; and

(b) Assignment of Lease and Agreement dated as of February 1, 1980, between First Security State Bank, as Owner-Trustee, and First Security Bank of Utah, N.A., as Trustee.

The names and addresses of the parties to the

aforementioned Agreements are as follows:

(1) Trustee:

First Security Bank of Utah, N.A.,  
79 South Main Street,  
Salt Lake City, Utah 84111.

(2) Owner-Trustee:

First Security State Bank,  
79 South Main Street,  
Salt Lake City, Utah 84111.

(3) Lessee:

Morton-Norwich Products, Inc.,  
(Morton Salt Division),  
110 North Wacker Drive,  
Chicago, Illinois 60606.

Please file and record the documents referred to in this letter and cross-index them under the names of the Trustee, the Owner-Trustee and the Lessee.

The equipment covered by the aforementioned documents consists of the following:

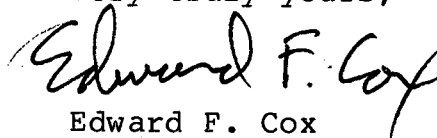
100 100-ton, 3,500 cu. ft., 3 compartment covered hopper cars bearing identifying numbers of the Lessee MNPX 2001-MNPX 2100, both inclusive.

There is also enclosed a check for \$100 payable to the Interstate Commerce Commission, representing the fee for recording the Equipment Trust Agreement and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered

to the bearer of this letter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Edward F. Cox". The signature is fluid and cursive, with the first name "Edward" being more prominent and the last name "Cox" written in a simpler, more direct style.

Edward F. Cox  
As Agent for  
Morton-Norwich Products, Inc.

Agatha L. Mergenovich, Secretary,  
Interstate Commerce Commission,  
Washington, D. C. 20423

Encls.

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INTERSTATE COMMERCE COMMISSION

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[CS&M Ref. 5325-005]

LEASE OF RAILROAD EQUIPMENT

Dated as of February 1, 1980

Between

MORTON-NORWICH PRODUCTS, INC.,  
Lessee,

and

FIRST SECURITY STATE BANK,  
Owner-Trustee.

---

LEASE OF RAILROAD EQUIPMENT, dated as of February 1, 1980, between MORTON-NORWICH PRODUCTS, INC., a Delaware corporation (the "Lessee"), and FIRST SECURITY STATE BANK, a Utah corporation (the "Owner-Trustee"), acting not in its individual capacity but solely as Owner-Trustee under a Trust Agreement dated as of January 8, 1980 (the "Trust Agreement"), with Westinghouse Credit Corporation and Suburban Trust Company (the "Owners" and severally an "Owner").

The Lessee, the Owners, the Owner-Trustee and the State of Wisconsin Investment Board (the "Purchaser") are entering into a Participation Agreement (the "Participation Agreement") dated as of the date hereof.

Brae Corporation ("Brae") is assigning to the Owner-Trustee pursuant to a Purchase Order Assignment (the "Purchase Order Assignment"), substantially in the form attached to the Participation Agreement as Exhibit A, Brae's rights under a certain Purchase Agreement (the "Manufacturing Agreement") with Marine Industries Limitee (the "Builder") to purchase and take delivery of those units of railroad equipment described in Schedule A hereto (the "Equipment").

The Lessee desires to lease from the Owner-Trustee all the units of the Equipment, or such lesser number of units as are delivered and accepted under the Purchase Order Assignment, at the rentals and for the term and upon the conditions hereinafter provided (each such unit being hereinafter called a "Unit").

The Owner-Trustee is entering into an Equipment Trust Agreement (the "Security Document") with First Security Bank of Utah, National Association (the "Trustee"), pursuant to which equipment trust certificates (the "Trust Certificates") will be issued and sold to finance a portion of the purchase price of the Equipment, and the Owner-Trustee will be obligated to make payments equal to the principal of and interest on the Trust Certificates out of the rentals received hereunder and security title and interest in the Units will be conveyed to the Trustee until the Owner-Trustee fulfills all its obligations under the Security Document.

The Owner-Trustee will assign this Lease to the

Trustee pursuant to an Assignment of Lease and Agreement (the "Lease Assignment"), substantially in the form attached to the Security Document as Annex II, and the Lessee will consent to the Lease Assignment pursuant to a Consent and Agreement (the "Consent").

NOW, THEREFORE, in consideration of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Owner-Trustee hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein provided, the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Owner-Trustee or either Owner under this Lease or under the Security Document, including the Lessee's rights by subrogation thereunder against the Builder or the Trustee or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Owner-Trustee or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or the bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise,

to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Owner-Trustee, either Owner, any holder of the Trust Certificates or the Trustee for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Owner-Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Purchase Order Assignment. Each delivery of a Unit to the Owner-Trustee under the Purchase Order Assignment shall be deemed to be a delivery hereunder to the Lessee at the point or points designated by the Lessee at which such Unit is delivered to the Owner-Trustee under the Purchase Order Assignment. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Owner-Trustee under the Purchase Order Assignment, on behalf of the Trustee under the Security Document and on behalf of itself hereunder, and execute and deliver to the Owner-Trustee and the Trustee a certificate of acceptance (the "Certificate of Acceptance") substantially in the form attached hereto in Schedule C, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee, the Owner-Trustee and the Trustee, and shall be subject thereafter to all the terms and conditions of this Lease and the Security Document. The Lessee hereby represents and warrants to the Owner-Trustee that no Unit shall be put into service earlier than the date of its delivery to and acceptance by the Lessee as agent for the Owner-Trustee hereunder.

§ 3. Rentals. The Lessee agrees to pay to the Owner-Trustee, as rental for each Unit subject to this Lease, 36 consecutive semiannual payments payable in arrears on January 15 and July 15 in each year commencing January 15, 1981, to and including July 15, 1998. The first 18 semiannual rental payments shall each be in an amount equal to 5.28930% of the Purchase Price (as defined in the Participation Agreement) of each Unit and the subsequent 18 semiannual rental payments shall each be in an amount equal to 6.46470% of the Purchase Price of each Unit.

If any of the rental payment dates referred to above is not a Business Day (as defined in the Security

Document), the rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day.

For so long as the Security Document shall remain in effect, the Owner-Trustee irrevocably instructs the Lessee to make all the payments due the Owner-Trustee provided for in this Lease, other than amounts payable directly to the Owner-Trustee pursuant to § 6 or § 9 hereof, to the Trustee, for the account of the Owner-Trustee, in care of the Trustee, with instructions to the Trustee (a) first to apply such payments to satisfy the obligations of the Owner-Trustee under the Security Document due and payable on the date such payments are due and payable hereunder and (b) second, so long as no Event of Default (or event which, with notice or lapse of time or both, could constitute an Event of Default) under the Security Document shall have occurred and be continuing, to pay any balance promptly to the Owner-Trustee in immediately available funds at such address as the Owner-Trustee shall specify in writing.

The Lessee agrees to make each payment contemplated by this § 3 in immediately available funds at or prior to 10:00 a.m., Salt Lake City time, at the Corporate Trust Office (as defined in the Security Document) on the date due, or if the Security Document shall no longer be in effect, at the office of the Owner-Trustee.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on July 15, 1998. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9 and 14 hereof) shall survive the expiration of the term of this Lease or the termination or rescission of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Trustee under the Security Document, and, if an Event of Default should occur under the Security Document, the Trustee may terminate this Lease (or rescind its termination), all as provided therein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Trustee is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment,



this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 12 hereof.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Schedule A hereto, and will keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", with appropriate changes thereof as from time to time may be required by law, in the reasonable opinion of the Trustee and the Owner-Trustee, in order to protect the Trustee's and the Owner-Trustee's title to and interest in such Unit and the rights of Trustee under the Security Document. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Trustee and the Owner-Trustee and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Trustee and the Owner-Trustee an Opinion of Counsel (as defined in the Security Document) to the effect that such statement has been so filed and deposited, that such filing, recording and deposit will protect the Trustee's and the Owner-Trustee's rights in such Units and that no other filing, recording, deposit or giving of notice with or to any Federal, state or local government or agency thereof is necessary to protect the rights of the Trustee and the Owner-Trustee in such Units.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees

to pay, and to indemnify and hold the Owner-Trustee, the Owners, the Trustee, the holders of Trust Certificates and the respective estates held in trust by the Owner-Trustee under the Trust Agreement and by the Trustee under the Security Document harmless from all taxes (income, gross receipts, franchise, sales, use, property [real or personal, tangible or intangible] and stamp taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Owner-Trustee, either Owner, the Trustee, the holders of Trust Certificates, the Lessee, the trust estates created by the Trust Agreement and the Security Document, the Builder or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, subleasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom or value added thereto; this Lease, the Lease Assignment, the Consent, the Trust Agreement, the Participation Agreement, the Security Document, the Manufacturing Agreement, the Purchase Order Assignment, the Trust Certificates or the issuance thereof under the Security Document, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held in trust by the Owner-Trustee under the Trust Agreement or by the Trustee under the Security Document (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: (i) Taxes of the United States or of any state or political subdivision thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Owner-Trustee (in its individual capacity), either Owner, the holders of Trust Certificates or the Trustee (in its individual capacity) or franchise taxes measured by the net income of the Owner-Trustee, either Owner, the holders of Trust Certificate or the Trustee, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease or the Participation Agreement; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by either Owner or any transfer or disposition by either Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the

Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease without the consent of the Lessee, unless, in each case, such transfer or disposition is required or contemplated by this Lease or an Event of Default shall have occurred and be continuing; and (iii) any Taxes imposed on or measured by any trustee fees received by the Owner-Trustee or the Trustee; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the fourth paragraph of this § 6. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or political subdivision thereof, or of any foreign country or subdivision thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same.

In the event that the Owner-Trustee shall become obligated to make any payment to the Trustee or otherwise pursuant to any corresponding provision of the Security Document not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner-Trustee to fulfill completely its obligations pursuant to said provision.

The amount which the Lessee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6 shall be an amount sufficient to restore the indemnified party to the same position such indemnified party would have been in had such Taxes not been imposed.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the

same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided, however, that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent may not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such indemnified party shall pay to the Lessee the amount of such refund or interest net of expenses; provided, however, that no Event of Default and no event which, with notice or lapse of time or both, would constitute an Event of Default shall have occurred and be continuing.

In case any report or return is required to be made with respect to any Taxes, the Lessee shall either make such report or return in such manner as will show the interests of the Owner-Trustee and the Trustee in the Units, or shall promptly notify the Owner-Trustee, the Owners and the Trustee of such requirement and shall make such report or return in such manner as shall be satisfactory to the Owner-Trustee, the Trustee and the Owners. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this § 6 shall survive and continue, but only with respect to periods included in the term of this Lease, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Lease. All amounts payable by the Lessee pursuant to this § 6 shall be payable directly to the indemnified party entitled to indemnification, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Lessee shall not constitute a guaranty by the Lessee of the payment of any installments of principal or interest payable under the Trust Certificates.

The Lessee shall furnish promptly, upon request,

such information and data as is normally available to the Lessee and which the Owner-Trustee, the Trustee or an Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§ 7. Payment for Casualty Occurrences; Insurance.

In the event that any Unit shall be or become worn out (ordinary wear in salt service excepted), lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or for an indefinite period, but only if such requisition for an indefinite period shall be in effect on the expiration date of this Lease, or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days or until the end of the term of this Lease (such occurrences being hereinafter called "Casualty Occurrences") during the term of this Lease, or during the period prior to the date such Unit shall have been returned in the manner provided in § 11 or § 14 hereof, the Lessee shall promptly and fully notify the Owner-Trustee and the Trustee with respect thereto. On the rental payment date next succeeding the delivery of such notice, the Lessee shall pay to the Owner-Trustee an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus an amount equal to the Casualty Value (as hereinafter defined) of such Unit which suffered a Casualty Occurrence as of the date of such payment in accordance with Schedule B hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Owner-Trustee shall be entitled to recover possession of such Unit.

The Owner-Trustee hereby appoints the Lessee its agent to dispose of any Unit, or any component thereof, suffering a Casualty Occurrence before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Owner-Trustee and is not in default hereunder and no event then exists which after notice or lapse of time or both would become a default hereunder, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty

Value of such Unit, and shall pay any excess (less expenses of sale incurred by the Lessee in the sale of such Unit) to the Owner-Trustee.

The "Casualty Value" of each Unit as of the date on which payment therefor is made as aforesaid shall be an amount equal to that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite such date.

Whenever any Unit shall suffer a Casualty Occurrence after the end of the term of this Lease and before such Unit shall have been returned in the manner provided in § 14 hereof, and whenever any Unit shall suffer a Casualty Occurrence while being stored as provided in § 14 hereof, the Lessee shall promptly and fully notify the Owner-Trustee with respect thereto and pay to the Owner-Trustee an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 20% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Owner-Trustee shall be entitled to recover possession of such Unit.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit.

The Lessee will at all times prior to the return of the Units to the Owner-Trustee at its own expense cause to be carried and maintained public liability insurance with respect to third-party personal injury and property damage insurance in respect of the Units at the time subject hereto; provided, however, that the Lessee may self-insure such Units to the extent such self-insurance is consistent with prudent industry practice and in any event to the same extent as is maintained on other similar equipment, if any, owned or leased by the Lessee; provided further, however, that if, in the reasonable opinion of the Owner-Trustee or the Trustee, the Lessee's financial condition has materially and adversely changed from its condition as of September 30, 1979, so as to jeopardize Lessee's ability to self-insure the Owner-Trustee or the Trustee may by written notice require the Lessee to carry and maintain property damage insurance as provided herein. The Lessee will carry such insurance as is required hereunder in such amounts, for such risks, with such deductibles and with such insurance companies, satisfactory

to the Owner-Trustee and the Trustee and in any event consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured against by similar owners or lessees in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such property damage insurance as is required hereunder shall be payable to the Owner-Trustee, the Trustee, the Owners and, so long as there is no Event of Default hereunder, the Lessee, as their respective interests may appear; and the proceeds of any such public liability insurance shall be payable to the Lessee to the extent not needed to reimburse the Trustee, the Owners and Owner-Trustee for any payments which either shall be required to make with respect to any event the occurrence of which is insured against by such public liability insurance.

Any policies of insurance required to be carried in accordance with the foregoing paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Trustee, the Owners and the Owner-Trustee, (ii) name the Trustee, the Owners and the Owner-Trustee as additional named insureds as their respective interests may appear and (iii) waive any right to claim any premiums or commissions against the Owners, the Trustee and the Owner-Trustee. In the event such policies shall contain breach of warranty provisions, such policies shall provide that in respect of the interests of the Trustee, the Owner and the Owner-Trustee in such policies the insurance shall not require contributions from other policies held by the Trustee, the Owners or the Owner-Trustee and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Trustee, the Owners and the Owner-Trustee, respectively) and shall insure the Trustee, the Owners and the Owner-Trustee regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Trustee, the Owners or the Owner-Trustee, respectively).

The Lessee shall furnish or cause to be furnished to the Trustee and Owners together with each report referred to in § 8 hereof a certificate of insurance then in effect for each of the Units.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1981, the Lessee will furnish to the Owner-Trustee, the Owners and the Trustee an

Officer's Certificate (as defined in the Security Document) (a) setting forth as at the preceding December 31 (or as of the date of this Lease in the case of the first such Officer's Certificate) the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such Officer's Certificate) (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Owner-Trustee or the Trustee may reasonably request confirming inspection and replacement (as necessary) of the interior linings of the Units and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the Security Document have been preserved or replaced. The Owner-Trustee shall have the right, at its own expense and risk, by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Owner-Trustee may request during the continuance of this Lease.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. NEITHER THE OWNER-TRUSTEE NOR EITHER OWNER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE OWNER-TRUSTEE NOR EITHER OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Owner-Trustee and the Lessee, are to be borne by the Lessee; but the Owner-Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the



account of the Owner-Trustee and the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Owner-Trustee may have against the Builder, including, but not limited to, any claims and rights arising under the provisions of the Manufacturing Agreement (provided, however, that the Lessee shall be entitled to reimburse itself for its out-of-pocket expenses for asserting any claim from the proceeds of such claim). The Owner-Trustee and the Owners shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Unit or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Unit or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Unit. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Owner-Trustee (but not as between the Lessee and the Builder) that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Owner-Trustee based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Owner-Trustee, the Owners and the Trustee, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent being hereinafter called the "Applicable Laws") and in the event that the Applicable Laws require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will fully conform therewith at its own expense; provided, however, that the Lessee may, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the opinion of the Owner-Trustee or the Trustee, adversely affect the property or rights of the Owner-Trustee or the Trustee under this Lease or under the Security Document; provided further, that the Lessee shall not be obligated to

make any such alteration, replacement, modification or addition (an "Alteration") to any Unit unless either (i) the Alteration is readily removable from such Unit without causing material damage thereto (a "Severable Alteration"), in which event the Lessee shall cause such Severable Alteration to be made as above provided and to remain affixed to such Unit during the remainder of the term of this Lease, but such Severable Alteration shall otherwise be subject to the provisions of the fourth paragraph of this § 9, and to the provisions of the first paragraph of § 14 hereof, or (ii) such Alteration is not a Severable Alteration (a "Non-Severable Alteration") and such Non-Severable Alteration complies with one or both of the following conditions:

(A) the Non-Severable Alteration is furnished by the Lessee in order to comply with any health, safety or environmental standards of any government or governmental authority having relevant jurisdiction, or

(B) the Non-Severable Alteration does not increase either the productivity or the capacity of such Unit by more than 25% over its productivity or capacity when first placed in service and does not modify such Unit for a materially different use (provided that in any event a Non-Severable Alteration will be regarded as complying with this clause (B) as to increases in productivity or capacity if the actual cost thereof when added to the actual cost of all previous Non-Severable Alterations to such Unit made by the Lessee hereunder [other than those described in the foregoing clause (ii)(A)] does not exceed 10% of the Total Cost of such Unit, calculated with appropriate price adjustments as set forth in Internal Revenue Service Procedure 79-48).

The Lessee, at its own cost and expense, will maintain and keep each Unit (including any accession thereto as hereinbelow provided) which is subject to this Lease in as good condition as when delivered to the Lessee hereunder, ordinary wear and tear in salt service excepted (provided, however that the Lessee will regularly inspect and replace as necessary the interior linings of the Units), in accordance with the Interchange Rules of the American Association of Railroads and in the same condition as other similar Equipment owned or leased by similar owners or lessees and in any event in the same condition as other similar equipment, if any, owned or leased by the Lessee.

The Lessee, at its own cost and expense, may from time to time make such other additions, modifications and

improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units and do not adversely and materially affect the value of the Units. The additions, modifications and improvements made by the Lessee under the next preceding sentence shall be owned by the Lessee (or such other party as may have title thereto), except to the extent such additions, modifications or improvements are described in the next succeeding paragraph.

Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit by any Applicable Law, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance shall immediately be vested in the Owner-Trustee.

The Lessee shall pay, and shall protect, indemnify and hold the Owner-Trustee, the Owners, the holders of Trust Certificates and the Trustee, and their respective successors, assigns, agents and servants (the "Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses [including without limitation attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or

of any other equipment in connection with the Units (whether owned or under the control of the Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease (except by the Owner-Trustee) or of any agreement, law, rule, regulation, ordinance or restriction affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Owner-Trustee's obligations under the Lease Assignment, the Security Document or the Participation Agreement; or (viii) any claim arising out of the Trustee's holding a security interest under the Security Document or the Lease Assignment excluding, however, with respect to an Indemnified Person any matter resulting from an act or omission of the Indemnified Person which would constitute the wilful misconduct or gross negligence of such Indemnified Person (all of which matters indemnified against pursuant to the above being hereafter called the "Indemnified Matters"). All payments hereunder shall be made directly to the Indemnified Person. The Lessee shall be obligated under this § 9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same Indemnified Matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this § 9, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person),

shall be equal to the amount of such payment. The Lessee and the Owner-Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any Indemnified Matter. Upon the payment in full of any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person in respect of the Indemnified Matter. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified Matter shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments or related expenses previously made in respect of such matter.

The indemnities contained in this § 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The Lessee agrees at its expense to prepare and deliver to the Owner-Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Owner-Trustee) any and all reports (other than income tax returns) to be filed by the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Trustee of the Units or the leasing thereof to the Lessee.

The indemnities arising under this § 9 shall not be deemed to operate as a guarantee of the residual value of the Units or as a guarantee of the payment of the principal of or interest on the Trust Certificates.

§ 10. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in payment of any amount

provided for in § 3 or § 7 hereof or in Paragraph 10 of the Participation Agreement and such default shall continue for five business days; or

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest therein, or of the right to possession of any of the Units; or

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein, in the Participation Agreement or in the Consent and such default shall continue for 30 days after written notice from the Owner-Trustee or the Trustee to the Lessee specifying the default and demanding that the same be remedied; or

D. any representation of the Lessee made in the Participation Agreement or pursuant thereto shall prove to have been false in any material respect when made; or

E. any proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Consent under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee hereunder and under the Consent shall not have been and shall not continue to have been duly assumed in writing pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee, or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

F. an Event of Default set forth in Article Five of the Security Document shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder or under the Participation Agreement;

then, in any such case, the Owner-Trustee, at its option, may,

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Owner-Trustee may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be located, without judicial process if this can be done without breach of the peace, and take possession of all or any of the Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee or its successors or assigns to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Owner-Trustee shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Owner-Trustee, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Owner-Trustee reasonably estimates to be

obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 8% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Owner-Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount with respect to each Unit equal to the excess, if any, of the Casualty Value thereof as of the rental payment date on or next preceding the date of termination over the amount the Owners reasonably estimate to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Owner-Trustee shall have sold any Unit, the Owner-Trustee, in lieu of collecting any amounts payable to the Owner-Trustee by the Lessee pursuant to clause (x) or clause (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Owner-Trustee and the Lessee shall pay to the Owner-Trustee on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of an Owner's or the Owner-Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Owners and the Owner-Trustee shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity. The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is



permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Owner-Trustee to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Owner-Trustee.

The Lessee also agrees to furnish the Owner-Trustee, the Owners and the Trustee, promptly upon any responsible officer becoming aware of any condition which constitutes an Event of Default under the Lease or which, after notice or lapse of time or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this paragraph, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of his operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof or the Security Document, the Lessee shall forthwith deliver possession of the Units to the Owner-Trustee. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear in salt service excepted, shall meet the standards of all Applicable Laws and shall have attached any accession thereto as provided in § 9 and shall have removed therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 9, is owned by the Lessee. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic

and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) and at the usual speed place such Units upon such storage tracks selected by Lessee and reasonably acceptable to the Owner-Trustee;

(b) permit the Owner-Trustee to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Owner-Trustee; and

(c) transport the same to any place on the lines of a railroad selected by Lessee and reasonably acceptable to the Owner-Trustee, all as directed by the Owner-Trustee.

The performance of the foregoing covenant is of the essence of this Lease and upon application to any court having jurisdiction in the premises, the Owner-Trustee shall be entitled to a decree against the Lessee, requiring the specific performance thereof. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Units in good order and repair and will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Owner-Trustee and, if received by the Lessee, shall be promptly turned over to the Owner-Trustee. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Owner-Trustee for each day thereafter an amount equal to the amount, if any, by which .035915% of the Purchase Price of such Unit exceeds the actual earnings received by the Owner-Trustee with respect to such Unit for each such day.

For the purpose of this § 11, without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Owner-Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Owner-Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever

shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Owner-Trustee without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Owner-Trustee other than the Trustee except upon written notice of such assignment from the Owner-Trustee. All the rights of the Owner-Trustee hereunder (including, but not limited to, the rights under §§ 6, 7 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Owners and the Owners' and the Owner-Trustee's assigns.

So long as (i) no Event of Default, or an event which with notice or lapse of time or both could constitute an Event of Default, exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Trustee is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units upon lines of railroad owned or operated by it or upon lines of railroad over which the Lessee has trackage or other operating right or over which railroad equipment of the Lessee is regularly operated pursuant to contract or tariff provisions and shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements and to assign its rights to, or to sublease any Unit, but only upon and subject to all the terms and conditions of this Lease and the revenues derived by virtue of the use, operation, assignment or sublease of any Unit during the term of this Lease, including without limitation, demurrage and like charges, shall be for the benefit of the Lessee; provided, however, that no such assignment or sublease shall be permitted hereunder unless the rights of the assignee or the sublessee are expressly subject and subordinate to the rights of the Owner-Trustee and the Trustee hereunder and under the Security Document; provided further, however, that the Lessee shall not permit the use of any Unit outside the United States of America, except for de minimus use in Canada. No such assignment, sublease or permitted use shall relieve the Lessee of any of the obligations, liabilities or duties hereunder, which shall be and remain those of a principal and not a surety.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any

sublease relating to the use of the Units and other than an encumbrance resulting from claims against the Owner-Trustee or the Trustee not related to the ownership or leasing of, or the security interest of the Trustee in, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto pursuant to § 9 hereof or the interest of the Owner-Trustee, the Trustee or the Lessee therein.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Lessee hereunder, under the Participation Agreement and under the Consent by an appropriate instrument in writing) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease, the Participation Agreement or the Consent.

§ 13. Renewal Options and Right of First Refusal.  
Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner-Trustee not less than eight months prior to the end of the original term or any extended term, as the case may be, of this Lease, elect to extend the term of this Lease in respect of Units then covered by this Lease, for one or two additional three-year periods commencing on the scheduled expiration of the original term or any extended term, as the case may be, of this Lease, at a "Fair Market Rental" payable in semiannual payments on the semiannual anniversaries of the expiration of the original term of this Lease; provided, however, that no such extended term shall extend beyond July 15, 2004.

Fair Market Rental shall be determined for each extended term of this Lease on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the

location of current use shall not be a deduction from such rental. If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Owner-Trustee and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure (unless the Lessee shall by notice in writing rescind its extension notice on or before the commencement of such procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Owner-Trustee.

Provided that this Lease has not been earlier

terminated and the Lessee is not in default hereunder, in the event the Owner-Trustee elects to sell any Units to third parties at the expiration of the original or any extended term of this Lease, the Lessee shall be given written notice of such intention prior to the expiration of the term of this Lease. In the event that the Owner-Trustee shall receive, prior to the end of the then term of this Lease, a bona fide offer in writing from another party to purchase the Units and the Owner-Trustee elects to sell the Units pursuant to such offer at the expiration of the term of this Lease, the Owner-Trustee shall give written notice to the Lessee of such offer. Such notice shall be given to the Lessee on or prior to the end of the then term of this Lease, and shall include the price offered by the other party in writing to the Owner-Trustee. The Lessee shall have the sole right and option, for a period of 10 business days from the date of receipt of such notice, to elect to purchase the Units for cash at the price at which the Units are proposed to be sold. The Lessee shall exercise such purchase right by delivery to the Owner-Trustee of a written notice specifying a date of purchase, which date shall not be later than the later of (i) 15 days after the date of delivery of such notice by the Lessee to the Owner-Trustee or (ii) the end of the then term of this Lease.

§ 14. Return of Units upon Expiration of Term. As soon as practicable on or after the termination of the original term or any extended term of this Lease and in any event not later than 90 days after the termination of the original term or any extended term of this Lease, with respect to Units not purchased by the Lessee, the Lessee will, at its own cost and expense, cause each such Unit to be transported to such point or points as shall be reasonably designated by the Lessee with the approval of the Owner-Trustee, which shall not be unreasonably withheld, and will arrange for the storage of such Units at such point for a period not exceeding 90 days from the date at which at least 90% of such Units are first placed in storage pursuant to this § 14, the assembly, delivery, storage and transporting of such Units to be at the expense and risk (except as set forth in the next succeeding sentence) of the Lessee. Upon notice of storage of at least 90% of the Units, the Owner-Trustee will be responsible for risk of loss and liability with respect to each Unit delivered to such storage tracks from the date upon which at least 90% of the Units are first placed in storage pursuant to this § 14. During any such storage period the Lessee will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Unit, to inspect the same. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the

Owner-Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Owner-Trustee pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear in salt service excepted, (ii) have attached or affixed thereto any accession title to which is in the Owner-Trustee pursuant to § 9 hereof and have removed therefrom at Lessee's expense any addition, modification or improvement title to which is in the Lessee or any other person pursuant to § 9 and (iii) meet the applicable standards then in effect under all Applicable Laws.

In connection with the Owner-Trustee's sale of the Units so returned, the Owner-Trustee may warrant to a purchaser of such Units that such Units are owned by the Owner-Trustee free and clear of all liens, encumbrances, and rights of others, and the Lessee shall hold the Owner-Trustee harmless from and against any liability arising by virtue of said warranty other than for liability arising by virtue of liens against the Owner-Trustee not related to the ownership or leasing of the Units.

If any Unit suffers a Casualty Occurrence during any storage period provided for in this § 14, the Lessee shall pay to the Owner-Trustee the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of this Lease as to such Unit, belong to and be the property of the Owner-Trustee. In the event that by the 90th day after the termination of this Lease with respect to any Units the Lessee has not, at the request of the Owner-Trustee, caused at least 90% of such Units to be transported to such point or points as provided in this § 14, the Lessee shall pay to the Owner-Trustee the per diem interchange multiplied by the number of Units equal to the difference between 90% of such Units and the number of Units previously delivered pursuant to this § 14 (such number to be determined on each day) for each day from such 90th day to the date on which at least 90% of the Units have been so transported. If, after the termination of the 90-day storage period provided in this § 14, any Units shall not have been so transported, the Lessee shall pay to the Owner-Trustee the per diem interchange for each Unit not so transported for each day after the end of such

storage period until each Unit has been so transported.

§ 15. Recording. The Owner-Trustee, at its sole cost and expense, will cause this Lease, the Security Document and the Lease Assignment and any assignment hereof or thereof to be duly filed and recorded in accordance with 49 U.S.C. § 11303. The Owner-Trustee will, at its sole cost and expense, undertake the filing, registering, deposit, and recording required of the Owner-Trustee under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Trustee for the purpose of proper protection, to its satisfaction, of the Owner-Trustee's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Document and the Lease Assignment.

The Owner-Trustee will promptly furnish to the Trustee evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel with respect thereto satisfactory to the Trustee.

§ 16. Owner-Trustee's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein, the Owner-Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Owner-Trustee incurred in connection with such performance or compliance, together with interest on such amount at the rate of 12.40% per annum or such lesser amount as shall be legally enforceable, shall be payable by the Lessee upon demand.

§ 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at a rate of 12.40% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be



deemed to have been given when delivered to such other party or deposited in the United States mails, first class postage prepaid, addressed as follows:

if to the Owner-Trustee, at 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department, with copies to Westinghouse Credit Corporation, Three Gateway Center, Pittsburgh, Pennsylvania 15222, attention of Manager-Lease Operations, and to Suburban Trust Company, 6495 New Hampshire Avenue, Hyattsville, Maryland 20783;

if to the Lessee, at Morton-Norwich Products, Inc. (Morton Salt Division), 110 North Wacker Drive, Chicago, Illinois 60606, attention of General Transportation Manager;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above for such party. Any notice to the Lessee by the Trustee or the holders of the Trust Certificates regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Owner-Trustee.

§ 19. No Recourse. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security State Bank, or for the purpose or with the intention of binding First Security State Bank personally but are made and intended for the purpose of binding only the Trust Estate (as defined in the Trust Agreement) and this Lease is executed and delivered by First Security State Bank solely in the exercise of the powers expressly conferred upon it under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against First Security State Bank or on account of any representation, undertaking or agreement of First Security State Bank, as Owner-Trustee either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by,

through or under the Lessee; provided, however, that the Lessee or any person claiming by, through or under the Lessee making claim hereunder, may look to said Trust Estate for satisfaction of the same.

§ 20. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Owner-Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Owner-Trustee and the Lessee.

§ 21. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Trustee shall be deemed to be the original counterpart. It shall not be necessary that any counterpart be signed by both the parties hereto so long as each party hereto shall have executed and delivered one counterpart hereof to the other party. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 22. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 23. Import Duties. The parties acknowledge that the Purchase Price of the Units paid by the Owner-Trustee includes duty imposed by the United States. In the event that by reason of change in law or otherwise, the United States refunds to the Owner-Trustee all or any portion of

MORTON-NORWICH PRODUCTS, INC.,

b7c

At test:

by

At test:

Authorized Officer

STATE OF ILLINOIS, )  
 ) ss.:  
 COUNTY OF COOK, )

On this 31st day of March, 1980, before me personally appeared S. SANDRIK, to me personally known, who, being by me duly sworn, says that he is a VICE PRESIDENT of MORTON SALT DIVISION OF MORTON-NORWICH PRODUCTS, INC. that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Isabella Kosciuk  
 Notary Public

[Notarial Seal]

My Commission Expires Feb. 10, 1982

STATE OF UTAH, )  
 ) ss.:  
 COUNTY OF SALT LAKE, )

On this            day of            1980, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of First Security State Bank, that one of the seals affixed to the foregoing instrument is the seal of said bank, that said instrument was signed and sealed on behalf of said bank by authority of its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

\_\_\_\_\_  
 Notary Public

[Notarial Seal]

# SCHEDULE A

<u>Manufacturer</u>	<u>Trust Equipment Description</u>	<u>Units of Trust Equipment</u>	<u>Road Numbers (incl.)</u>
Marine Industrie Limitee	100-ton, 3,500 cu. ft., 3 compartment covered hopper cars built in conformity with Manufacturer's General Arrangement drawing No. 9-14274, Rev. A dated 2/8/79, and Specification No. 390 dated 10/79	100	MNPX 2001 through MNPX 2100

SCHEDULE B

Casualty Values

<u>Payment Date</u>	<u>Percentage</u>
7/15/80	109.3220
1/15/81	110.8566
7/15/81	112.2557
1/15/82	112.8544
7/15/82	113.4905
1/15/83	113.8597
7/15/83	114.0051
1/15/84	113.8952
7/15/84	113.5679
1/15/85	112.9987
7/15/85	112.2203
1/15/86	111.2148
7/15/86	110.0102
1/15/87	108.5977
7/15/87	107.0399
1/15/88	105.3932
7/15/88	103.6527
1/15/89	101.8130
7/15/89	99.8684
1/15/90	96.6375
7/15/90	93.2849
1/15/91	89.8036
7/15/91	86.1863
1/15/92	82.4252
7/15/92	78.5120
1/15/93	74.4383
7/15/93	70.1947
1/15/94	65.7717
7/15/94	65.1717
1/15/94	56.4286
7/15/95	51.5656
1/15/96	46.6401
7/15/96	41.6145
1/15/97	36.5408
7/15/97	31.3787
1/15/98	26.1870
7/15/98	20.0000

SCHEDULE C

Certificate of Acceptance

I, \_\_\_\_\_, a duly authorized representative of FIRST SECURITY STATE BANK, as Owner-Trustee under a Trust Agreement dated as of February 1, 1980 (the "Owner-Trustee"), of MORTON-NORWICH PRODUCTS, INC. (the "Lessee"), and of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, as Trustee under an Equipment Trust Agreement dated as of February 1, 1980 (the "Trustee"), do hereby certify that I have inspected, received, approved and accepted, on behalf of the Owner-Trustee, the Lessee and the Trustee, under the Purchase Order Assignment dated as of February 1, 1980, among Brae Corporation, the Owner-Trustee, and Marine Industrie Limitee, under the Lease of Railroad Equipment dated as of February 1, 1980, between the Owner-Trustee and the Lessee and under the aforesaid Equipment Trust Agreement, the following units of equipment (the "Equipment"):

DESCRIPTION OF EQUIPMENT:	100-ton, 3,500 cu., ft. 3 compartment covered hopper cars built in conformity with Builder's General Arrangement drawing No. 9-14274 Rev. A dated 2/8/79, and Specification No. 390 dated 10/79
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BUILDER:	Marine Industrie Limitee
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DATE ACCEPTED:	_____, 1980
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ROAD NUMBERS:	
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I do further certify that the Equipment is in good order and condition and conforms to the above-listed description, and at the time of delivery to the Owner-Trustee, the Lessee and the Trustee each unit of the Equipment was marked with its respective road number and there was plainly, distinctly, permanently and conspicuously marked upon each side of each unit of the Equipment the following legend in letters not less than one inch in height, in all caps:

OWNERSHIP SUBJECT TO A SECURITY AGREEMENT  
FILED WITH THE INTERSTATE COMMERCE COMMISSION.

I do further certify, on behalf of the Lessee, that none of the units of Equipment was placed in service by the Lessee or any other person prior to its delivery and acceptance hereunder.

The execution of this Certificate will in no way relieve or decrease the responsibility of the Builder of the Equipment for warranties it has made with respect to the Equipment.

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Authorized Representative of  
First Security State Bank, as  
Owner-Trustee,  
and of  
Morton-Norwich Products, Inc.  
and of  
First Security State Bank of  
Utah, National Association,  
as Trustee



LEASE OF RAILROAD EQUIPMENT

Dated as of February 1, 1980

Between

MORTON-NORWICH PRODUCTS, INC.,  
Lessee,

and

FIRST SECURITY STATE BANK,  
Owner-Trustee.

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LEASE OF RAILROAD EQUIPMENT, dated as of February 1, 1980, between MORTON-NORWICH PRODUCTS, INC., a Delaware corporation (the "Lessee"), and FIRST SECURITY STATE BANK, a Utah corporation (the "Owner-Trustee"), acting not in its individual capacity but solely as Owner-Trustee under a Trust Agreement dated as of January 8, 1980 (the "Trust Agreement"), with Westinghouse Credit Corporation and Suburban Trust Company (the "Owners" and severally an "Owner").

The Lessee, the Owners, the Owner-Trustee and the State of Wisconsin Investment Board (the "Purchaser") are entering into a Participation Agreement (the "Participation Agreement") dated as of the date hereof.

Brae Corporation ("Brae") is assigning to the Owner-Trustee pursuant to a Purchase Order Assignment (the "Purchase Order Assignment"), substantially in the form attached to the Participation Agreement as Exhibit A, Brae's rights under a certain Purchase Agreement (the "Manufacturing Agreement") with Marine Industries Limitee (the "Builder") to purchase and take delivery of those units of railroad equipment described in Schedule A hereto (the "Equipment").

The Lessee desires to lease from the Owner-Trustee all the units of the Equipment, or such lesser number of units as are delivered and accepted under the Purchase Order Assignment, at the rentals and for the term and upon the conditions hereinafter provided (each such unit being hereinafter called a "Unit").

The Owner-Trustee is entering into an Equipment Trust Agreement (the "Security Document") with First Security Bank of Utah, National Association (the "Trustee"), pursuant to which equipment trust certificates (the "Trust Certificates") will be issued and sold to finance a portion of the purchase price of the Equipment, and the Owner-Trustee will be obligated to make payments equal to the principal of and interest on the Trust Certificates out of the rentals received hereunder and security title and interest in the Units will be conveyed to the Trustee until the Owner-Trustee fulfills all its obligations under the Security Document.

The Owner-Trustee will assign this Lease to the

Trustee pursuant to an Assignment of Lease and Agreement (the "Lease Assignment"), substantially in the form attached to the Security Document as Annex II, and the Lessee will consent to the Lease Assignment pursuant to a Consent and Agreement (the "Consent").

NOW, THEREFORE, in consideration of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Owner-Trustee hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein provided, the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Owner-Trustee or either Owner under this Lease or under the Security Document, including the Lessee's rights by subrogation thereunder against the Builder or the Trustee or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Owner-Trustee or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or the bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise,

to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Owner-Trustee, either Owner, any holder of the Trust Certificates or the Trustee for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Owner-Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Purchase Order Assignment. Each delivery of a Unit to the Owner-Trustee under the Purchase Order Assignment shall be deemed to be a delivery hereunder to the Lessee at the point or points designated by the Lessee at which such Unit is delivered to the Owner-Trustee under the Purchase Order Assignment. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Owner-Trustee under the Purchase Order Assignment, on behalf of the Trustee under the Security Document and on behalf of itself hereunder, and execute and deliver to the Owner-Trustee and the Trustee a certificate of acceptance (the "Certificate of Acceptance") substantially in the form attached hereto in Schedule C, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee, the Owner-Trustee and the Trustee, and shall be subject thereafter to all the terms and conditions of this Lease and the Security Document. The Lessee hereby represents and warrants to the Owner-Trustee that no Unit shall be put into service earlier than the date of its delivery to and acceptance by the Lessee as agent for the Owner-Trustee hereunder.

§ 3. Rentals. The Lessee agrees to pay to the Owner-Trustee, as rental for each Unit subject to this Lease, 36 consecutive semiannual payments payable in arrears on January 15 and July 15 in each year commencing January 15, 1981, to and including July 15, 1998. The first 18 semiannual rental payments shall each be in an amount equal to 5.28930% of the Purchase Price (as defined in the Participation Agreement) of each Unit and the subsequent 18 semiannual rental payments shall each be in an amount equal to 6.46470% of the Purchase Price of each Unit.

If any of the rental payment dates referred to above is not a Business Day (as defined in the Security

Document), the rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day.

For so long as the Security Document shall remain in effect, the Owner-Trustee irrevocably instructs the Lessee to make all the payments due the Owner-Trustee provided for in this Lease, other than amounts payable directly to the Owner-Trustee pursuant to § 6 or § 9 hereof, to the Trustee, for the account of the Owner-Trustee, in care of the Trustee, with instructions to the Trustee (a) first to apply such payments to satisfy the obligations of the Owner-Trustee under the Security Document due and payable on the date such payments are due and payable hereunder and (b) second, so long as no Event of Default (or event which, with notice or lapse of time or both, could constitute an Event of Default) under the Security Document shall have occurred and be continuing, to pay any balance promptly to the Owner-Trustee in immediately available funds at such address as the Owner-Trustee shall specify in writing.

The Lessee agrees to make each payment contemplated by this § 3 in immediately available funds at or prior to 10:00 a.m., Salt Lake City time, at the Corporate Trust Office (as defined in the Security Document) on the date due, or if the Security Document shall no longer be in effect, at the office of the Owner-Trustee.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on July 15, 1998. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9 and 14 hereof) shall survive the expiration of the term of this Lease or the termination or rescission of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Trustee under the Security Document, and, if an Event of Default should occur under the Security Document, the Trustee may terminate this Lease (or rescind its termination), all as provided therein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Trustee is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment,

this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 12 hereof.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Schedule A hereto, and will keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", with appropriate changes thereof as from time to time may be required by law, in the reasonable opinion of the Trustee and the Owner-Trustee, in order to protect the Trustee's and the Owner-Trustee's title to and interest in such Unit and the rights of Trustee under the Security Document. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Trustee and the Owner-Trustee and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Trustee and the Owner-Trustee an Opinion of Counsel (as defined in the Security Document) to the effect that such statement has been so filed and deposited, that such filing, recording and deposit will protect the Trustee's and the Owner-Trustee's rights in such Units and that no other filing, recording, deposit or giving of notice with or to any Federal, state or local government or agency thereof is necessary to protect the rights of the Trustee and the Owner-Trustee in such Units.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees

to pay, and to indemnify and hold the Owner-Trustee, the Owners, the Trustee, the holders of Trust Certificates and the respective estates held in trust by the Owner-Trustee under the Trust Agreement and by the Trustee under the Security Document harmless from all taxes (income, gross receipts, franchise, sales, use, property [real or personal, tangible or intangible] and stamp taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Owner-Trustee, either Owner, the Trustee, the holders of Trust Certificates, the Lessee, the trust estates created by the Trust Agreement and the Security Document, the Builder or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, subleasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom or value added thereto; this Lease, the Lease Assignment, the Consent, the Trust Agreement, the Participation Agreement, the Security Document, the Manufacturing Agreement, the Purchase Order Assignment, the Trust Certificates or the issuance thereof under the Security Document, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held in trust by the Owner-Trustee under the Trust Agreement or by the Trustee under the Security Document (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: (i) Taxes of the United States or of any state or political subdivision thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Owner-Trustee (in its individual capacity), either Owner, the holders of Trust Certificates or the Trustee (in its individual capacity) or franchise taxes measured by the net income of the Owner-Trustee, either Owner, the holders of Trust Certificate or the Trustee, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease or the Participation Agreement; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by either Owner or any transfer or disposition by either Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the

Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease without the consent of the Lessee, unless, in each case, such transfer or disposition is required or contemplated by this Lease or an Event of Default shall have occurred and be continuing; and (iii) any Taxes imposed on or measured by any trustee fees received by the Owner-Trustee or the Trustee; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the fourth paragraph of this § 6. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or political subdivision thereof, or of any foreign country or subdivision thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same.

In the event that the Owner-Trustee shall become obligated to make any payment to the Trustee or otherwise pursuant to any corresponding provision of the Security Document not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Owner-Trustee to fulfill completely its obligations pursuant to said provision.

The amount which the Lessee shall be required to pay with respect to any Taxes indemnified against pursuant to this § 6 shall be an amount sufficient to restore the indemnified party to the same position such indemnified party would have been in had such Taxes not been imposed.

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the



same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided, however, that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent may not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such indemnified party shall pay to the Lessee the amount of such refund or interest net of expenses; provided, however, that no Event of Default and no event which, with notice or lapse of time or both, would constitute an Event of Default shall have occurred and be continuing.

In case any report or return is required to be made with respect to any Taxes, the Lessee shall either make such report or return in such manner as will show the interests of the Owner-Trustee and the Trustee in the Units, or shall promptly notify the Owner-Trustee, the Owners and the Trustee of such requirement and shall make such report or return in such manner as shall be satisfactory to the Owner-Trustee, the Trustee and the Owners. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this § 6 shall survive and continue, but only with respect to periods included in the term of this Lease, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Lease. All amounts payable by the Lessee pursuant to this § 6 shall be payable directly to the indemnified party entitled to indemnification, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Lessee shall not constitute a guaranty by the Lessee of the payment of any installments of principal or interest payable under the Trust Certificates.

The Lessee shall furnish promptly, upon request,

such information and data as is normally available to the Lessee and which the Owner-Trustee, the Trustee or an Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

§ 7. Payment for Casualty Occurrences; Insurance.

In the event that any Unit shall be or become worn out (ordinary wear in salt service excepted), lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or for an indefinite period, but only if such requisition for an indefinite period shall be in effect on the expiration date of this Lease, or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days or until the end of the term of this Lease (such occurrences being hereinafter called "Casualty Occurrences") during the term of this Lease, or during the period prior to the date such Unit shall have been returned in the manner provided in § 11 or § 14 hereof, the Lessee shall promptly and fully notify the Owner-Trustee and the Trustee with respect thereto. On the rental payment date next succeeding the delivery of such notice, the Lessee shall pay to the Owner-Trustee an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus an amount equal to the Casualty Value (as hereinafter defined) of such Unit which suffered a Casualty Occurrence as of the date of such payment in accordance with Schedule B hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Owner-Trustee shall be entitled to recover possession of such Unit.

The Owner-Trustee hereby appoints the Lessee its agent to dispose of any Unit, or any component thereof, suffering a Casualty Occurrence before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Owner-Trustee and is not in default hereunder and no event then exists which after notice or lapse of time or both would become a default hereunder, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty

Value of such Unit, and shall pay any excess (less expenses of sale incurred by the Lessee in the sale of such Unit) to the Owner-Trustee.

The "Casualty Value" of each Unit as of the date on which payment therefor is made as aforesaid shall be an amount equal to that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite such date.

Whenever any Unit shall suffer a Casualty Occurrence after the end of the term of this Lease and before such Unit shall have been returned in the manner provided in § 14 hereof, and whenever any Unit shall suffer a Casualty Occurrence while being stored as provided in § 14 hereof, the Lessee shall promptly and fully notify the Owner-Trustee with respect thereto and pay to the Owner-Trustee an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 20% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Owner-Trustee shall be entitled to recover possession of such Unit.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit.

The Lessee will at all times prior to the return of the Units to the Owner-Trustee at its own expense cause to be carried and maintained public liability insurance with respect to third-party personal injury and property damage insurance in respect of the Units at the time subject hereto; provided, however, that the Lessee may self-insure such Units to the extent such self-insurance is consistent with prudent industry practice and in any event to the same extent as is maintained on other similar equipment, if any, owned or leased by the Lessee; provided further, however, that if, in the reasonable opinion of the Owner-Trustee or the Trustee, the Lessee's financial condition has materially and adversely changed from its condition as of September 30, 1979, so as to jeopardize Lessee's ability to self-insure the Owner-Trustee or the Trustee may by written notice require the Lessee to carry and maintain property damage insurance as provided herein. The Lessee will carry such insurance as is required hereunder in such amounts, for such risks, with such deductibles and with such insurance companies, satisfactory

to the Owner-Trustee and the Trustee and in any event consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured against by similar owners or lessees in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such property damage insurance as is required hereunder shall be payable to the Owner-Trustee, the Trustee, the Owners and, so long as there is no Event of Default hereunder, the Lessee, as their respective interests may appear; and the proceeds of any such public liability insurance shall be payable to the Lessee to the extent not needed to reimburse the Trustee, the Owners and Owner-Trustee for any payments which either shall be required to make with respect to any event the occurrence of which is insured against by such public liability insurance.

Any policies of insurance required to be carried in accordance with the foregoing paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Trustee, the Owners and the Owner-Trustee, (ii) name the Trustee, the Owners and the Owner-Trustee as additional named insureds as their respective interests may appear and (iii) waive any right to claim any premiums or commissions against the Owners, the Trustee and the Owner-Trustee. In the event such policies shall contain breach of warranty provisions, such policies shall provide that in respect of the interests of the Trustee, the Owner and the Owner-Trustee in such policies the insurance shall not require contributions from other policies held by the Trustee, the Owners or the Owner-Trustee and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Trustee, the Owners and the Owner-Trustee, respectively) and shall insure the Trustee, the Owners and the Owner-Trustee regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Trustee, the Owners or the Owner-Trustee, respectively).

The Lessee shall furnish or cause to be furnished to the Trustee and Owners together with each report referred to in § 8 hereof a certificate of insurance then in effect for each of the Units.

§ 8. Reports. On or before April 1 in each year, commencing with the calendar year 1981, the Lessee will furnish to the Owner-Trustee, the Owners and the Trustee an

Officer's Certificate (as defined in the Security Document) (a) setting forth as at the preceding December 31 (or as of the date of this Lease in the case of the first such Officer's Certificate) the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such Officer's Certificate) (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Owner-Trustee or the Trustee may reasonably request confirming inspection and replacement (as necessary) of the interior linings of the Units and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by § 5 hereof and the Security Document have been preserved or replaced. The Owner-Trustee shall have the right, at its own expense and risk, by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Owner-Trustee may request during the continuance of this Lease.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. NEITHER THE OWNER-TRUSTEE NOR EITHER OWNER MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE OWNER-TRUSTEE NOR EITHER OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Owner-Trustee and the Lessee, are to be borne by the Lessee; but the Owner-Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the

account of the Owner-Trustee and the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Owner-Trustee may have against the Builder, including, but not limited to, any claims and rights arising under the provisions of the Manufacturing Agreement (provided, however, that the Lessee shall be entitled to reimburse itself for its out-of-pocket expenses for asserting any claim from the proceeds of such claim). The Owner-Trustee and the Owners shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Unit or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Unit or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Unit. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Owner-Trustee (but not as between the Lessee and the Builder) that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Owner-Trustee based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Owner-Trustee, the Owners and the Trustee, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent being hereinafter called the "Applicable Laws") and in the event that the Applicable Laws require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will fully conform therewith at its own expense; provided, however, that the Lessee may, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the opinion of the Owner-Trustee or the Trustee, adversely affect the property or rights of the Owner-Trustee or the Trustee under this Lease or under the Security Document; provided further, that the Lessee shall not be obligated to

make any such alteration, replacement, modification or addition (an "Alteration") to any Unit unless either (i) the Alteration is readily removable from such Unit without causing material damage thereto (a "Severable Alteration"), in which event the Lessee shall cause such Severable Alteration to be made as above provided and to remain affixed to such Unit during the remainder of the term of this Lease, but such Severable Alteration shall otherwise be subject to the provisions of the fourth paragraph of this § 9, and to the provisions of the first paragraph of § 14 hereof, or (ii) such Alteration is not a Severable Alteration (a "Non-Severable Alteration") and such Non-Severable Alteration complies with one or both of the following conditions:

(A) the Non-Severable Alteration is furnished by the Lessee in order to comply with any health, safety or environmental standards of any government or governmental authority having relevant jurisdiction, or

(B) the Non-Severable Alteration does not increase either the productivity or the capacity of such Unit by more than 25% over its productivity or capacity when first placed in service and does not modify such Unit for a materially different use (provided that in any event a Non-Severable Alteration will be regarded as complying with this clause (B) as to increases in productivity or capacity if the actual cost thereof when added to the actual cost of all previous Non-Severable Alterations to such Unit made by the Lessee hereunder [other than those described in the foregoing clause (ii)(A)] does not exceed 10% of the Total Cost of such Unit, calculated with appropriate price adjustments as set forth in Internal Revenue Service Procedure 79-48).

The Lessee, at its own cost and expense, will maintain and keep each Unit (including any accession thereto as hereinbelow provided) which is subject to this Lease in as good condition as when delivered to the Lessee hereunder, ordinary wear and tear in salt service excepted (provided, however that the Lessee will regularly inspect and replace as necessary the interior linings of the Units), in accordance with the Interchange Rules of the American Association of Railroads and in the same condition as other similar Equipment owned or leased by similar owners or lessees and in any event in the same condition as other similar equipment, if any, owned or leased by the Lessee.

The Lessee, at its own cost and expense, may from time to time make such other additions, modifications and

improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units and do not adversely and materially affect the value of the Units. The additions, modifications and improvements made by the Lessee under the next preceding sentence shall be owned by the Lessee (or such other party as may have title thereto), except to the extent such additions, modifications or improvements are described in the next succeeding paragraph.

Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit by any Applicable Law, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance shall immediately be vested in the Owner-Trustee.

The Lessee shall pay, and shall protect, indemnify and hold the Owner-Trustee, the Owners, the holders of Trust Certificates and the Trustee, and their respective successors, assigns, agents and servants (the "Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses [including without limitation attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or



of any other equipment in connection with the Units (whether owned or under the control of the Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease (except by the Owner-Trustee) or of any agreement, law, rule, regulation, ordinance or restriction affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Owner-Trustee's obligations under the Lease Assignment, the Security Document or the Participation Agreement; or (viii) any claim arising out of the Trustee's holding a security interest under the Security Document or the Lease Assignment excluding, however, with respect to an Indemnified Person any matter resulting from an act or omission of the Indemnified Person which would constitute the wilful misconduct or gross negligence of such Indemnified Person (all of which matters indemnified against pursuant to the above being hereafter called the "Indemnified Matters"). All payments hereunder shall be made directly to the Indemnified Person. The Lessee shall be obligated under this § 9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same Indemnified Matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this § 9, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person),

shall be equal to the amount of such payment. The Lessee and the Owner-Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any Indemnified Matter. Upon the payment in full of any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person in respect of the Indemnified Matter. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified Matter shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments or related expenses previously made in respect of such matter.

The indemnities contained in this § 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by any Indemnified Person. None of the indemnities in this § 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The Lessee agrees at its expense to prepare and deliver to the Owner-Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Owner-Trustee) any and all reports (other than income tax returns) to be filed by the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Trustee of the Units or the leasing thereof to the Lessee.

The indemnities arising under this § 9 shall not be deemed to operate as a guarantee of the residual value of the Units or as a guarantee of the payment of the principal of or interest on the Trust Certificates.

§ 10. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in payment of any amount

provided for in § 3 or § 7 hereof or in Paragraph 10 of the Participation Agreement and such default shall continue for five business days; or

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest therein, or of the right to possession of any of the Units; or

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein, in the Participation Agreement or in the Consent and such default shall continue for 30 days after written notice from the Owner-Trustee or the Trustee to the Lessee specifying the default and demanding that the same be remedied; or

D. any representation of the Lessee made in the Participation Agreement or pursuant thereto shall prove to have been false in any material respect when made; or

E. any proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Consent under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee hereunder and under the Consent shall not have been and shall not continue to have been duly assumed in writing pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee, or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

F. an Event of Default set forth in Article Five of the Security Document shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder or under the Participation Agreement;

then, in any such case, the Owner-Trustee, at its option, may,

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Owner-Trustee may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be located, without judicial process if this can be done without breach of the peace, and take possession of all or any of the Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee or its successors or assigns to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Owner-Trustee shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Owner-Trustee, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Owner-Trustee reasonably estimates to be

obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 8% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Owner-Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount with respect to each Unit equal to the excess, if any, of the Casualty Value thereof as of the rental payment date on or next preceding the date of termination over the amount the Owners reasonably estimate to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Owner-Trustee shall have sold any Unit, the Owner-Trustee, in lieu of collecting any amounts payable to the Owner-Trustee by the Lessee pursuant to clause (x) or clause (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Owner-Trustee and the Lessee shall pay to the Owner-Trustee on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of an Owner's or the Owner-Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Owners and the Owner-Trustee shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity. The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is

permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Owner-Trustee to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Owner-Trustee.

The Lessee also agrees to furnish the Owner-Trustee, the Owners and the Trustee, promptly upon any responsible officer becoming aware of any condition which constitutes an Event of Default under the Lease or which, after notice or lapse of time or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this paragraph, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of his operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof or the Security Document, the Lessee shall forthwith deliver possession of the Units to the Owner-Trustee. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear in salt service excepted, shall meet the standards of all Applicable Laws and shall have attached any accession thereto as provided in § 9 and shall have removed therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 9, is owned by the Lessee. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic

and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) and at the usual speed place such Units upon such storage tracks selected by Lessee and reasonably acceptable to the Owner-Trustee;

(b) permit the Owner-Trustee to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Owner-Trustee; and

(c) transport the same to any place on the lines of a railroad selected by Lessee and reasonably acceptable to the Owner-Trustee, all as directed by the Owner-Trustee.

The performance of the foregoing covenant is of the essence of this Lease and upon application to any court having jurisdiction in the premises, the Owner-Trustee shall be entitled to a decree against the Lessee, requiring the specific performance thereof. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Units in good order and repair and will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Owner-Trustee and, if received by the Lessee, shall be promptly turned over to the Owner-Trustee. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Owner-Trustee for each day thereafter an amount equal to the amount, if any, by which .035915% of the Purchase Price of such Unit exceeds the actual earnings received by the Owner-Trustee with respect to such Unit for each such day.

For the purpose of this § 11, without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Owner-Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Owner-Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever

shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Owner-Trustee without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Owner-Trustee other than the Trustee except upon written notice of such assignment from the Owner-Trustee. All the rights of the Owner-Trustee hereunder (including, but not limited to, the rights under §§ 6, 7 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Owners and the Owners' and the Owner-Trustee's assigns.

So long as (i) no Event of Default, or an event which with notice or lapse of time or both could constitute an Event of Default, exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Trustee is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units upon lines of railroad owned or operated by it or upon lines of railroad over which the Lessee has trackage or other operating right or over which railroad equipment of the Lessee is regularly operated pursuant to contract or tariff provisions and shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements and to assign its rights to, or to sublease any Unit, but only upon and subject to all the terms and conditions of this Lease and the revenues derived by virtue of the use, operation, assignment or sublease of any Unit during the term of this Lease, including without limitation, demurrage and like charges, shall be for the benefit of the Lessee; provided, however, that no such assignment or sublease shall be permitted hereunder unless the rights of the assignee or the sublessee are expressly subject and subordinate to the rights of the Owner-Trustee and the Trustee hereunder and under the Security Document; provided further, however, that the Lessee shall not permit the use of any Unit outside the United States of America, except for de minimus use in Canada. No such assignment, sublease or permitted use shall relieve the Lessee of any of the obligations, liabilities or duties hereunder, which shall be and remain those of a principal and not a surety.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any



sublease relating to the use of the Units and other than an encumbrance resulting from claims against the Owner-Trustee or the Trustee not related to the ownership or leasing of, or the security interest of the Trustee in, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto pursuant to § 9 hereof or the interest of the Owner-Trustee, the Trustee or the Lessee therein.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Lessee hereunder, under the Participation Agreement and under the Consent by an appropriate instrument in writing) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease, the Participation Agreement or the Consent.

§ 13. Renewal Options and Right of First Refusal.  
Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner-Trustee not less than eight months prior to the end of the original term or any extended term, as the case may be, of this Lease, elect to extend the term of this Lease in respect of Units then covered by this Lease, for one or two additional three-year periods commencing on the scheduled expiration of the original term or any extended term, as the case may be, of this Lease, at a "Fair Market Rental" payable in semiannual payments on the semiannual anniversaries of the expiration of the original term of this Lease; provided, however, that no such extended term shall extend beyond July 15, 2004.

Fair Market Rental shall be determined for each extended term of this Lease on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the

location of current use shall not be a deduction from such rental. If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Owner-Trustee and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure (unless the Lessee shall by notice in writing rescind its extension notice on or before the commencement of such procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Owner-Trustee.

Provided that this Lease has not been earlier

terminated and the Lessee is not in default hereunder, in the event the Owner-Trustee elects to sell any Units to third parties at the expiration of the original or any extended term of this Lease, the Lessee shall be given written notice of such intention prior to the expiration of the term of this Lease. In the event that the Owner-Trustee shall receive, prior to the end of the then term of this Lease, a bona fide offer in writing from another party to purchase the Units and the Owner-Trustee elects to sell the Units pursuant to such offer at the expiration of the term of this Lease, the Owner-Trustee shall give written notice to the Lessee of such offer. Such notice shall be given to the Lessee on or prior to the end of the then term of this Lease, and shall include the price offered by the other party in writing to the Owner-Trustee. The Lessee shall have the sole right and option, for a period of 10 business days from the date of receipt of such notice, to elect to purchase the Units for cash at the price at which the Units are proposed to be sold. The Lessee shall exercise such purchase right by delivery to the Owner-Trustee of a written notice specifying a date of purchase, which date shall not be later than the later of (i) 15 days after the date of delivery of such notice by the Lessee to the Owner-Trustee or (ii) the end of the then term of this Lease.

§ 14. Return of Units upon Expiration of Term. As soon as practicable on or after the termination of the original term or any extended term of this Lease and in any event not later than 90 days after the termination of the original term or any extended term of this Lease, with respect to Units not purchased by the Lessee, the Lessee will, at its own cost and expense, cause each such Unit to be transported to such point or points as shall be reasonably designated by the Lessee with the approval of the Owner-Trustee, which shall not be unreasonably withheld, and will arrange for the storage of such Units at such point for a period not exceeding 90 days from the date at which at least 90% of such Units are first placed in storage pursuant to this § 14, the assembly, delivery, storage and transporting of such Units to be at the expense and risk (except as set forth in the next succeeding sentence) of the Lessee. Upon notice of storage of at least 90% of the Units, the Owner-Trustee will be responsible for risk of loss and liability with respect to each Unit delivered to such storage tracks from the date upon which at least 90% of the Units are first placed in storage pursuant to this § 14. During any such storage period the Lessee will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Unit, to inspect the same. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the

Owner-Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Owner-Trustee pursuant to this § 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear in salt service excepted, (ii) have attached or affixed thereto any accession title to which is in the Owner-Trustee pursuant to § 9 hereof and have removed therefrom at Lessee's expense any addition, modification or improvement title to which is in the Lessee or any other person pursuant to § 9 and (iii) meet the applicable standards then in effect under all Applicable Laws.

In connection with the Owner-Trustee's sale of the Units so returned, the Owner-Trustee may warrant to a purchaser of such Units that such Units are owned by the Owner-Trustee free and clear of all liens, encumbrances, and rights of others, and the Lessee shall hold the Owner-Trustee harmless from and against any liability arising by virtue of said warranty other than for liability arising by virtue of liens against the Owner-Trustee not related to the ownership or leasing of the Units.

If any Unit suffers a Casualty Occurrence during any storage period provided for in this § 14, the Lessee shall pay to the Owner-Trustee the Casualty Value of such Unit as determined in accordance with § 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of this Lease as to such Unit, belong to and be the property of the Owner-Trustee. In the event that by the 90th day after the termination of this Lease with respect to any Units the Lessee has not, at the request of the Owner-Trustee, caused at least 90% of such Units to be transported to such point or points as provided in this § 14, the Lessee shall pay to the Owner-Trustee the per diem interchange multiplied by the number of Units equal to the difference between 90% of such Units and the number of Units previously delivered pursuant to this § 14 (such number to be determined on each day) for each day from such 90th day to the date on which at least 90% of the Units have been so transported. If, after the termination of the 90-day storage period provided in this § 14, any Units shall not have been so transported, the Lessee shall pay to the Owner-Trustee the per diem interchange for each Unit not so transported for each day after the end of such

storage period until each Unit has been so transported.

§ 15. Recording. The Owner-Trustee, at its sole cost and expense, will cause this Lease, the Security Document and the Lease Assignment and any assignment hereof or thereof to be duly filed and recorded in accordance with 49 U.S.C. § 11303. The Owner-Trustee will, at its sole cost and expense, undertake the filing, registering, deposit, and recording required of the Owner-Trustee under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Trustee for the purpose of proper protection, to its satisfaction, of the Owner-Trustee's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Document and the Lease Assignment.

The Owner-Trustee will promptly furnish to the Trustee evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel with respect thereto satisfactory to the Trustee.

§ 16. Owner-Trustee's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein, the Owner-Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Owner-Trustee incurred in connection with such performance or compliance, together with interest on such amount at the rate of 12.40% per annum or such lesser amount as shall be legally enforceable, shall be payable by the Lessee upon demand.

§ 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at a rate of 12.40% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be

deemed to have been given when delivered to such other party or deposited in the United States mails, first class postage prepaid, addressed as follows:

if to the Owner-Trustee, at 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department, with copies to Westinghouse Credit Corporation, Three Gateway Center, Pittsburgh, Pennsylvania 15222, attention of Manager-Lease Operations, and to Suburban Trust Company, 6495 New Hampshire Avenue, Hyattsville, Maryland 20783;

if to the Lessee, at Morton-Norwich Products, Inc. (Morton Salt Division), 110 North Wacker Drive, Chicago, Illinois 60606, attention of General Transportation Manager;

or addressed to any party at such other address as such party shall hereafter furnish to the other parties in writing. Any certificate, document or report required to be furnished by any party hereto to the other parties shall be delivered to the address set forth above for such party. Any notice to the Lessee by the Trustee or the holders of the Trust Certificates regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Owner-Trustee.

§ 19. No Recourse. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security State Bank, or for the purpose or with the intention of binding First Security State Bank personally but are made and intended for the purpose of binding only the Trust Estate (as defined in the Trust Agreement) and this Lease is executed and delivered by First Security State Bank solely in the exercise of the powers expressly conferred upon it under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against First Security State Bank or on account of any representation, undertaking or agreement of First Security State Bank, as Owner-Trustee either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by,

through or under the Lessee; provided, however, that the Lessee or any person claiming by, through or under the Lessee making claim hereunder, may look to said Trust Estate for satisfaction of the same.

§ 20. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Owner-Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Owner-Trustee and the Lessee.

§ 21. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Trustee shall be deemed to be the original counterpart. It shall not be necessary that any counterpart be signed by both the parties hereto so long as each party hereto shall have executed and delivered one counterpart hereof to the other party. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 22. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 23. Import Duties. The parties acknowledge that the Purchase Price of the Units paid by the Owner-Trustee includes duty imposed by the United States. In the event that by reason of change in law or otherwise, the United States refunds to the Owner-Trustee all or any portion of

the import duty paid as part of the Purchase Price of the Units, the Owner-Trustee agrees to pay over to the Lessee such refund; provided, however, that if as a result of the agreement of the parties set forth in this § 23 or such refund and payment either or both Owners shall lose, or shall not have, or shall lose the right to claim or shall suffer a disallowance of or shall be required to recapture all or any part of the Tax Benefits (as defined in the Participation Agreement), Lessee shall adjust the installments of rentals hereunder in accordance with Paragraph 10(b) of the Participation Agreement.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

MORTON-NORWICH PRODUCTS, INC.,

by \_\_\_\_\_

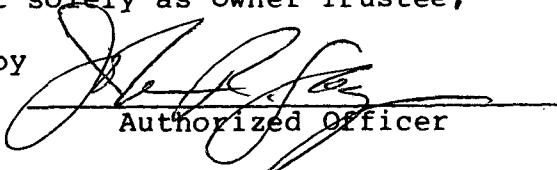
[CORPORATE SEAL]

Attest:

\_\_\_\_\_

FIRST SECURITY STATE BANK,  
not in its individual capacity  
but solely as Owner-Trustee,

by

  
Authorized Officer

[SEAL]

Attest:

  
Authorized Officer



STATE OF ILLINOIS, )  
 ) ss.:  
COUNTY OF COOK, )

On this                      day of                      1980, before me personally appeared                      , to me personally known, who, being by me duly sworn, says that he is a                      of                      , that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

[illegible]

On this 25<sup>th</sup> day of March 1980, before me personally appeared JOHN R. SAGER, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of First Security State Bank, that one of the seals affixed to the foregoing instrument is the seal of said bank, that said instrument was signed and sealed on behalf of said bank by authority of its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

Randy R. Mauhant  
Notary Public

[Notarial Seal]

# SCHEDULE A

<u>Manufacturer</u>	<u>Trust Equipment Description</u>	<u>Units of Trust Equipment</u>	<u>Road Numbers (incl.)</u>
Marine Industrie Limitee	100-ton, 3,500 cu. ft., 3 compartment covered hopper cars built in conformity with Manufacturer's General Arrangement drawing No. 9-14274, Rev. A dated 2/8/79, and Specification No. 390 dated 10/79	100	MNPX 2001 through MNPX 2100

SCHEDULE B

Casualty Values

<u>Payment Date</u>	<u>Percentage</u>
7/15/80	109.3220
1/15/81	110.8566
7/15/81	112.2557
1/15/82	112.8544
7/15/82	113.4905
1/15/83	113.8597
7/15/83	114.0051
1/15/84	113.8952
7/15/84	113.5679
1/15/85	112.9987
7/15/85	112.2203
1/15/86	111.2148
7/15/86	110.0102
1/15/87	108.5977
7/15/87	107.0399
1/15/88	105.3932
7/15/88	103.6527
1/15/89	101.8130
7/15/89	99.8684
1/15/90	96.6375
7/15/90	93.2849
1/15/91	89.8036
7/15/91	86.1863
1/15/92	82.4252
7/15/92	78.5120
1/15/93	74.4383
7/15/93	70.1947
1/15/94	65.7717
7/15/94	65.1717
1/15/94	56.4286
7/15/95	51.5656
1/15/96	46.6401
7/15/96	41.6145
1/15/97	36.5408
7/15/97	31.3787
1/15/98	26.1870
7/15/98	20.0000

SCHEDULE C

Certificate of Acceptance

I, \_\_\_\_\_, a duly authorized representative of FIRST SECURITY STATE BANK, as Owner-Trustee under a Trust Agreement dated as of February 1, 1980 (the "Owner-Trustee"), of MORTON-NORWICH PRODUCTS, INC. (the "Lessee"), and of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, as Trustee under an Equipment Trust Agreement dated as of February 1, 1980 (the "Trustee"), do hereby certify that I have inspected, received, approved and accepted, on behalf of the Owner-Trustee, the Lessee and the Trustee, under the Purchase Order Assignment dated as of February 1, 1980, among Brae Corporation, the Owner-Trustee, and Marine Industrie Limitee, under the Lease of Railroad Equipment dated as of February 1, 1980, between the Owner-Trustee and the Lessee and under the aforesaid Equipment Trust Agreement, the following units of equipment (the "Equipment"):

DESCRIPTION OF EQUIPMENT:	100-ton, 3,500 cu., ft. 3 compartment covered hopper cars built in conformity with Builder's General Arrangement drawing No. 9-14274 Rev. A dated 2/8/79, and Specification No. 390 dated 10/79
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BUILDER: Marine Industrie Limitee

DATE ACCEPTED: \_\_\_\_\_, 1980

ROAD NUMBERS:

I do further certify that the Equipment is in good order and condition and conforms to the above-listed description, and at the time of delivery to the Owner-Trustee, the Lessee and the Trustee each unit of the Equipment was marked with its respective road number and there was plainly, distinctly, permanently and conspicuously marked upon each side of each unit of the Equipment the following legend in letters not less than one inch in height, in all caps:

OWNERSHIP SUBJECT TO A SECURITY AGREEMENT  
FILED WITH THE INTERSTATE COMMERCE COMMISSION.

I do further certify, on behalf of the Lessee, that none of the units of Equipment was placed in service by the Lessee or any other person prior to its delivery and acceptance hereunder.

The execution of this Certificate will in no way relieve or decrease the responsibility of the Builder of the Equipment for warranties it has made with respect to the Equipment.

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Authorized Representative of  
First Security State Bank, as  
Owner-Trustee,

and of  
Morton-Norwich Products, Inc.

and of  
First Security State Bank of  
Utah, National Association,  
as Trustee